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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,016	03/12/2001	Evgenyi Y. Shalaev	PC10807ACJG	1570
7590 Gregg C. Benson Pfizer Inc. Patent Department, MS 4159 Eastern Point Road Groton, CT 06340			EXAMINER RUSSEL, JEFFREY E	
			ART UNIT 1654	PAPER NUMBER

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/805,016	SHALAEV ET AL.	
	Examiner	Art Unit	
	Jeffrey E. Russel	1654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-6 and 12-23 is/are allowed.
- 6) ☒ Claim(s) 1 and 7 is/are rejected.
- 7) ☒ Claim(s) 2 and 8-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>0903</u> . | 6) <input type="checkbox"/> Other: |

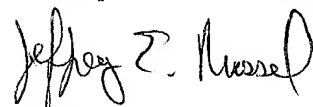
1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 2, 2003 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Carden (U.S. Patent No. 4,714,609) in view of Pelle et al (U.S. Patent No. 5,811,083) or Bernstein (U.S. Patent No. 5,840,734). Carden teaches contacting skin, which comprises solid-state proteins including keratin and collagen, with a skin tanning composition comprising vanillin. The treated skin is then exposed to the sun's rays, which include ultraviolet radiation. See, e.g., the Abstract; column 1, lines 25-26; and column 2, lines 4-8. Vanillin is a methoxysalicylaldehyde. The sun emits ultraviolet radiation which Pelle et al (see column 1, lines 29-31) and Bernstein (see column 1, lines 36-40) show to be a form of ionizing radiation which creates free radicals in the skin. Because the same solid-state protein is being contacted with the same methoxysalicylaldehyde according to the same method steps, inherently the solid-state proteins in the skin of Carden will be protected from ultraviolet ionizing radiation to the same extent claimed by Applicants.
4. Applicant's arguments filed September 2, 2003 have been fully considered but they are not persuasive.

The rejection based upon Carden is maintained. Applicants contend that ultraviolet radiation is not a form of ionizing radiation. The examiner disagrees, and again cites to Pelle et al and Bernstein as showing that ultraviolet radiation causes the formation of free radicals in the skin. As indicated in Applicants' definition of "ionizing radiation", radiation which causes the formation of free radicals constitutes "ionizing radiation". None of the references cited by Applicants contradict the statements in Pelle et al and Bernstein that ultraviolet radiation causes the formation of free radicals in the skin, and thus none of the references cited by Applicants teach, either explicitly or implicitly, that ultraviolet radiation is not a form of ionizing radiation. Applicants also contend that Carden does not teach a composition comprising a methoxy salicylaldehyde and a solid state protein, but have provided no explanation to support this argument.

5. Claims 3-6 and 12-23 are allowed. Claims 2 and 8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (703) 308-3975. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Brenda Brumback can be reached at (703) 306-3220. The fax number for Art Unit 1654 for formal communications is (703) 305-3014; for informal communications such as proposed amendments, the fax number (703) 746-5175 can be used. The telephone number for the Technology Center 1 receptionist is (703) 308-0196.


Jeffrey E. Russel
Primary Patent Examiner
Art Unit 1654

JRussel
September 29, 2003